

1. Background - Hopi Arsenic Mitigation Project

- January 2001, USEPA reduced the drinking water MCL for arsenic from 50 ppb to 10 ppb.
- Effective January 2006, all U.S. public water systems were required to meet the new standard.
- Shungopavi, Sipaulovi, and the FMCV all have signed Arsenic Compliance Plans with the USEPA.

Ex. 7(A)

- Tribe has received a total of \$5.3M in funding from the USEPA and IHS to develop the HAMP concept and for project planning.
- A draft PER was submitted to the USDA RD for comment in 2012, with the USDA providing extensive comments, including a requirement that arsenic treatment be evaluated as an alternative to the HAMP.
- Turquoise Trail Wells have been drilled and NEPA has been completed, PER and Strategic Plan are both nearing completion.
- Next major milestone, after completing the engineering documents, is to acquire construction funding for the HAMP.
- A USDA RD loan/grant will be essential to fully fund the construction of the project.
- Other potential financial partners are the Tribe, IHS, EPA, CDBG, HTHA, and the BIA.

2. Project Participant Roles

Indian Health Service:

- Provide the alternatives and costs of complying with the arsenic rule.
- Complete the engineering documents required for the Tribe to seek construction funding through the USDA RD, and from other parties.
- Provide partial funding for the project.
- Communicate with the Tribe to ensure all stakeholders are informed of the project's progress.

The Tribe:

- Consult with the USEPA and seek to bring the affected village water system into compliance.
- Obtain Tribal/Village project agreements.
- Application for construction funding through the USDA and others.
- Establish a utility organization to manage the future HAMP facilities and to meet funding agency requirements.
- Coordinate with various stakeholders, i.e., the Villages, EPA, BIA, IHS, Tawa'ovi Development, etc.

USEPA:

- Regulatory agency tasked with enforcing the arsenic rule and working with the Tribe/Villages as necessary.

3. Items For The Tribal Council's Consideration

a. Village/Tribal Agreements and Village/HPUA Agreements

Village/Tribal agreements are needed to establish both the Tribe's and the Village's intentions to participate in the project, prior to receiving construction funding.

Ex. 5 Attorney Client (AC)

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b. Cost of grid power vs. cost of generator power

Power is needed at the Turquoise Trail Well sites to operate the wells and disinfection equipment. The closest 3-phase power available is either from APS, near the Hopi Cultural Center, or from the NTUA, near the Hard Rocks Chapter. The IHS briefly evaluated the idea of using diesel generators to provide power to the well sites. Generator power would cost the tribe \$500,000 more per year in O&M costs, than would grid power. The cost-benefit of grid power over generator power over the project life (20 years) is approximately \$6M, despite the higher up-front capital costs. The IHS has drafted a quote request letter for the Tribe's use in pursuing a power line extension quote from APS. The IHS recommends that the HAMP facilities be powered by grid power and that the Tribe pursue power line extension quotes from both APS and the NTUA.

c. Evaluation of integrating the BIA water systems into the HAMP

A planning agreement has been drafted involving the Tribe, the IHS, and the BIA, to evaluate bringing the three BIA water systems at Keams Canyon, the Hopi Jr/Sr High School, and the Second Mesa Day School, into the project. An interagency agreement between the BIA and the IHS has also been drafted and is now under review by the IHS. The IHS is not funded to evaluate the BIA water systems, therefore contributions from the BIA and Tribe would be needed to amend the engineering documents for the inclusion of BIA. Fully evaluating serving the three BIA water systems with the HAMP may take up to 12 months to complete, including providing addendums to the PER, NEPA, and the Strategic Plan. The proposed planning project would seek to determine if there is any financial incentive to the Tribe in serving the three BIA systems, and to determine the costs to the BIA of becoming a customer of the HAMP. The IHS and USDA RD recommend that the Tribe submit the USDA RD application now for the HAMP to serve the affected Hopi Villages, especially in light of the pending USEPA compliance deadline, and decide at a later date, after reviewing the proposed planning agreement and the data collected during the planning project, whether it is in the Tribe's best interest to pursue an additional USDA RD application for additional loan/grant monies to serve the BIA water systems.

d. Selection of an HPUA director

The Hopi Tribe created the Hopi Public Utility Authority by resolution in May 2013. The HPUA is a necessary Tribal entity, which among other responsibilities will assume operation and maintenance of the HAMP, once constructed. The selection and hiring of an HPUA director would allow for that person to represent the Tribe in the technical design of the HAMP facilities, and be a liaison between the Tribe and the IHS design team. It is recommended that the Tribe select and hire an HPUA director as soon as possible.

e. Division of the combined Upper Sipaulovi/Mishongnovi water system

The Upper Sipaulovi/Mishongnovi water system is a combined system, with the Sipaulovi Water Association operating the majority of the system. The SWA has asked the IHS to provide for the division of the existing water system as part of the HAMP design. The HPUA will ultimately be responsible for the collection of water usage fees from both villages. It is recommended that the future HPUA director, as liaison from the Tribe, meet with both villages and the IHS, to determine the best method of dividing the existing Upper Water System, and of ensuring that the Upper system is configured such that each village's share of water usage may be determined and billed appropriately.

f. Possible HAMP financial partners – the HTHA and the Tawa’ovi Development

Approximately 15% of the homes to be served by the HAMP are HUD funded homes and eligible for HUD funding in support of community water infrastructure. Based on a total estimated project cost of \$14.6M, the HTHA could reasonably contribute 15% of that total, or \$2.2M, as a contribution towards serving the HUD funded homes. A contribution from the HTHA would serve to reduce the amount of loan the Tribe would need to secure from the USDA. The Tawa’ovi Development is another potential financial partner, as the planned development will benefit from the Turquoise Trail Wells and the planned power line extension to those wells. USEPA, USDA RD, and IHS monies are typically not eligible to fund new residential developments. The Tribe and the HTHA could contribute to the HAMP though, on behalf of the Tawa’ovi development, with a pro-rata contribution towards the HAMP infrastructure, which would again offset the amount of loan required from the USDA. It is recommended that the Tribe and the HTHA consider a pro rata contribution towards the HAMP infrastructure, which will support and benefit HTHA homes and the planned Tawa’ovi Development.

g. Compilation of the USDA loan/grant application

The application to the USDA for loan/grant funding comprises the engineering, legal, and financial aspects of the project, including: the engineering design, site control, the agreements between the utility organization and the utility customers, the environmental assessment, evidence of the applicant’s legal authority and organization, the applicant’s financial history and ability to repay, audits, repayment status of any existing USDA loans, proposed operating budgets, etc. The IHS is preparing and finalizing the engineering documents required for the application. The Tribe is responsible for compiling the required legal and financial documentation required by the USDA. It is recommended that the Tribe begin now to compile the USDA required documentation, so that the application package may be submitted to the USDA as soon as possible.